

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol
Denver, Colorado 80203
Phone (303) 866-2471
Fax (303) 866-2003



John W. Hickenlooper
Governor

June 7, 2017

The Honorable Colorado House of Representatives
General Assembly
State Capitol
200 E. Colfax Ave.
Denver, CO 80203

Dear Members of the Colorado House of Representatives:

Today, we filed with the Secretary of State House Bill 17-1367, "Concerning Marijuana Research Authorization" (HB 17-1367). As I am neither signing nor vetoing HB 17-1367, the bill's provisions will take effect on the applicable effective dates set out in the bill. This letter sets forth my reasons for allowing HB 17-1367 to become law absent my signature.

HB 17-1367 creates a new license type for entities using marijuana for research purposes, provides the Marijuana Enforcement Division (MED) rulemaking authority, and makes changes to medical and recreational marijuana testing. We take no issue with the bill's goals. However, there is one critical matter that should be addressed. Sections 7 and 8 of HB 17-1367 both provide that:

[A] [S]tate, local, or municipal agency shall not employ or use the results of any test of marijuana or marijuana products conducted by an analytical laboratory that is not certified pursuant to this subsection (3)(a)(IV) for the particular testing category *and* accredited to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 standard, or any subsequent superseding standard, in that field of testing (emphasis added).

During HB 17-1367's consideration, multiple amendments were added in the final days of session. As part of one amendment, the word "and" (emphasized above) was inserted to replace the word "or." We confirmed with the sponsors this change was unintended. However, the change has significant implications. Due to this change, no state or local agency may use or employ test results from a lab not certified by the Department of Revenue (DOR), and accredited to the International Organization for Standardization/International Electrotechnical Commission (ISO Accredited). At present, only two testing facilities in the State meet both requirements. Consequently, this provision will limit the MED's ability to rely on test results for regulatory and enforcement purposes.

During the brief period between the effective date of January 1, 2018 and the initial days of the 2018 Regular Session, when corrective action may be enacted, licensees will remain subject to all potency and contaminants testing requirements. Additionally, the State pesticide and random testing programs will

remain in operation. However, MED will be unable to initiate enforcement actions triggered by failed testing unless the law is changed. Given the processes for testing and enforcement established in MED rules, it is highly unlikely that any enforcement action will be triggered in the first month of 2018. Therefore, a correction enacted by the General Assembly in the early weeks of session is critical.

We communicated this issue to the sponsors and proponents of HB 17-1367. As a result of these conversations, the sponsors and proponents, in coordination with State agencies, will present draft legislation to the General Assembly for consideration in the initial days of the 2018 Regular Session. This will correct the language error and restore the affected components of the State's testing program. We urge the General Assembly to address this matter as soon as possible, so the State's testing program, which exists to protect marijuana consumers and employees of licensed marijuana businesses, will not be compromised. We stand ready to work with the General Assembly in this effort.

For these reasons, and with the understanding that all parties will work cooperatively and expeditiously in the 2018 Regular Session, I allowed HB 17-1367 to become law without my signature.

Sincerely,

A handwritten signature in blue ink, appearing to read "John W. Hickenlooper", with a large, stylized flourish at the end.

John W. Hickenlooper
Governor